

# ZONING RECLASSIFICATION APPLICATION

## Harford County Board of Appeals

Bel Air, Maryland 21014

Shaded Area For Office Use Only

APR 3 2007

Case No. 163

Date Filed 3/29/07

Hearing Date \_\_\_\_\_

Pre-Conf. \_\_\_\_\_

Receipt \_\_\_\_\_

Fee \$500.00

### Note

1. It is required that the applicant have a pre-filing conference with the Department of Planning and Zoning to determine the necessary additional information that will be required.
2. The burden of proof in any rezoning case shall be upon the Petitioner.
3. Any application in a zoning case and any amendment thereto shall contain specific allegations setting forth the basis for granting of the request.
4. Petition must contain names and addresses of all persons having legal or equitable interest in the property, including shareholders owning more than five percent (5%) of the stock in a corporation having any interest in the property, except those corporations listed and traded on a recognized stock exchange.
5. Application will be reviewed for completeness within ten (10) working days of submittal. Applicant will be notified by mail of completeness of application.

### Petitioner

Name 2001 Conowingo Road, LLC Phone Number Call Attorney

Address P. O. Box 230, Jarrettsville, Maryland 21084-0230  
Street Number Street State Zip Code

Property Owner Same as above. Phone Number \_\_\_\_\_

Address \_\_\_\_\_  
Street Number Street State Zip Code

Contract Purchaser N/A Phone Number \_\_\_\_\_

Address \_\_\_\_\_  
Street Number Street State Zip Code

Attorney/Representative Robert S. Lynch, Esquire Phone Number (410) 879-2222

Address Stark and Keenan, P.A., 30 Office Street, Bel Air, Maryland 21014  
Street Number Street State Zip Code

## Land Description

Address and Location of Property (with nearest intersecting road) 2021 Conowingo Road, Bel Air, MD  
East of the intersection of Conowingo Rd (Old U.S. Rt 1) and Johnson Mill Road.

Subdivision N/A Lot Number N/A Acreage/Lot Size 1.4169 A Election District 3rd

Existing Zoning R2 Proposed Zoning CI Acreage to be Rezoned 1.4169 Acres

Tax Map No. 41 Grid No. 1B Parcel 237 Deed Reference 7046/0034

Critical Area Designation N/A Land Use Plan Designation Medium Intensity

Present Use and ALL improvements: Vacant.

Proposed Use (If for subdivision development, proposed number of lots, type of dwellings, and type of development.

Example: Conventional, Conventional with Open Space, Planned Residential Development) Commercial.

Is the property designated a historic site, or does the property contain any designated or registered historic structures?

No. \_\_\_\_\_ If yes, describe: \_\_\_\_\_

Estimated Time Requested to Present Case: 2 hours.

### Required Information To Be Attached

*(Submit three (3) copies of each):*

allegation of substantial change in the character of the neighborhood, and if so, a precise description of such alleged substantial change.

- (a) The names and addresses of all persons, organizations, corporations, or groups owning land, any part of which lies within five hundred (500) feet of the property proposed to be reclassified as shown on the current assessment records of the State Department of Assessments and Taxation.

- (b) A statement of the grounds for the application including:

- (1) A statement as to whether there is an allegation of mistake as to the existing zoning, and if so, the nature of the mistake and facts relied upon to support this allegation.

- (2) A statement as to whether there is an

- (c) A statement as to whether, in the applicant's opinion, the proposed classification is in conformance with the Master Plan and the reasons for the opinion.

- (d) A Concept Plan shall be submitted by the applicant at the time the application is filed. The Concept Plan shall illustrate the following:

- (1) Location of site.

- (2) Proposed nature and distribution of land uses, not including engineering drawings.

- (3) Neighborhood (as defined by the Applicant).

- (4) All surrounding zoning.
- (5) Proposed public or private capital improvements.
- (e) Previous individual rezonings and recommendation since the effective date of the Comprehensive Rezoning, within the neighborhood of the petitioned area, their case numbers, dates, and decisions.
- (f) Environmental features map indicating woods, fields, streams, floodplains, non-tidal wetlands, etc.
- (g) Property deed and a boundary survey prepared and sealed by a registered surveyor, including dimension of area requested to be rezoned if only a portion of the property.
- (h) Private restrictions or covenants, if any, applicable to subject parcel.
- (i) Any agreements with individuals or associations in the neighborhood related to the proposed zoning shall be submitted.
- (j) Availability of public water and sewer.

## Additional Information as Required by the Department of Planning and Zoning

- (a) Existing and proposed libraries, parks, schools, fire and police departments.
- (b) Demonstration of compatibility of the proposed use with existing and proposed development for the area.
- (c) Traffic impact study.
- (d) Economic and Environmental impact studies.
- (e) Estimated population for existing and proposed petitioned area and neighborhood, as defined.
- (f) Soils analysis.
- (g) Aerial photograph.

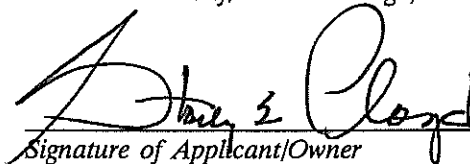
CASE 163 MAP 41 TYPE Rezoning

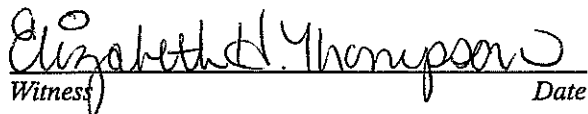
ELECTION DISTRICT 03 LOCATION 2021 Conowingo Road, Bel Air

BY 2001 Conowingo Road, LLC, PO Box 230, Jarrettsville 21084

Appealed because a rezoning pursuant to Section 267-12A of the Harford County Code to rezone 1.41 acres from a R2 District to a C1 District requires approval by the Board.


I/We do solemnly declare and affirm under the penalties of perjury that the contents of the foregoing affidavit are true and correct to the best of my/our knowledge, information, and belief.

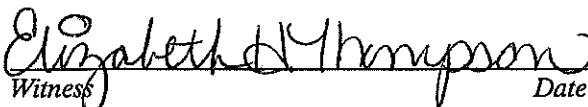
  
Signature of Applicant/Owner Date

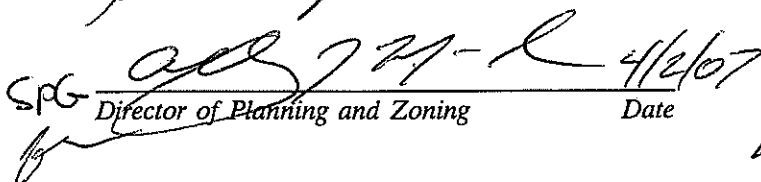
  
Witness Date

Signature of Contract Purchaser/Owner Date

Witness Date

  
Signature of Attorney/Representative Date

  
Witness Date

SPG  4/2/07  
Director of Planning and Zoning Date

  
Zoning Staff Date

## **2001 CONOWINGO ROAD, LLC**

Harford County Board of Appeals  
Piecemeal Rezoning Application

### **Definition of Neighborhood**

The neighborhood is defined as an approximate one (1) mile radius from the subject property.

### **Master Plan Conformance**

The subject property is currently designated as Industrial/Employment in the Harford County Land Use Plan. The proposed rezoning of the property to a CI zoning classification is consistent with the plan for the area. Industrial/Employment Land Use designation is defined as, "areas of concentrated manufacturing, distribution, technical, research, office and other activities generally located along major transportation corridors." The subject property is bounded on the west by U.S. Route 1, to the north by Maryland Route 543 and to the east by the Bel Air Bypass. These roads are considered major arterial highways due to their level of service. This rezoning request is consistent with the policies outlined within the transportation element of the Land Use Plan due to its proximity of these highways. The rezoning of this property to a CI classification will provide economic development opportunities that are more suitable for the surrounding land uses in this part of the Greater Bel Air/Hickory Community. Retail service uses are already in close proximity to the subject site. The subject property is located within the Development Envelope and is consistent with the policies in the Master Water and Sewer Plan and public utilities are available.

### **Change in Character of Neighborhood and Mistake**

Since the time of the last Comprehensive Rezoning, there have been numerous changes in the character of the neighborhood. There has been new construction of retail service uses in the neighborhood as a result of the construction and realignment of U.S. Route 1. In addition, the County has constructed a large recreational complex in the neighborhood which has been a source of much traffic generation. A new car dealership has been constructed on what was once known as the Church of the Nazarene property. With the reorientation of the highways, the subject property becomes much more feasible for retail service uses as opposed to Industrial/Employment. There has not been any development of Industrial/Employment in the general neighborhood as the majority of the land uses are now service uses and are highway oriented. The Master Plan designates this property as

Industrial/Employment area. The current zoning, R2 (Residential) was retained during the last 1997 Comprehensive Rezoning review. At that time, it was projected that this area north of Bel Air and part of the Hickory community would develop as an industrial or employment center. The R2 zoning was retained due to the single-family homes stripped along Route 1. Immediately adjacent to the R2 zoning is GI (Industrial) which is not compatible with residential uses. The General Industrial zoning is defined pursuant to Section 267-40A(iii) as, "this district is intended for Industrial uses of a larger scale or a more intensive processing with large areas of unenclosed storage, which may generate substantially more impact on surrounding properties. Retail sales are not permitted except as accessory to a manufacturing operation where the product is produced on a site or as otherwise permitted." A review of the uses allowed in a GI district, including sewage pumping stations, sanitary land fills, warehousing, wholesaling processing, rubble land fills, mineral extracting and processing. These uses would not be consistent with the neighborhood of Hickory, nor would they be compatible with the numerous institutional uses in the neighborhood, including the Hickory Elementary School, the Tucker Baseball Fields, and St. Ignatius Church. The present GI district is the subject of several rezoning cases requesting to change the district to CI (Commercial Industrial). The subject property should likewise be changed from R2 to CI in order to allow for compatibility of land uses. The premise, back in 1997, that this portion of the County would be ideal for a General Industrial use has not born out to fruition. Assumptions in 1997 were incorrect, the land use patterns and development that has occurred would not be compatible with an Industrial/Employment use of the property. On that basis alone, the property should be rezoned from R2 to a CI designation which allows a wider range of commercial uses, less intense industrial use, and zoning compatibility.

**DAVID R. CRAIG**  
HARFORD COUNTY EXECUTIVE

**LORRAINE COSTELLO**  
DIRECTOR OF ADMINISTRATION



**C. PETE GUTWALD**  
DIRECTOR OF PLANNING & ZONING

## HARFORD COUNTY GOVERNMENT

Department of Planning and Zoning

August 10, 2007

### ADDENDUM TO STAFF REPORT

### **BOARD OF APPEALS CASE NO. 163**

APPLICANT/OWNER: 2001 Conowingo Road, LLC  
P.O. Box 230, Jarrettsville, Maryland 21084

REPRESENTATIVE: Robert S. Lynch, Esquire  
Stark and Keenan, P.A.  
30 Office Street, Bel Air, MD 21014

LOCATION: Tax Map: 41 / Grid: 1B / Parcel: 237  
Election District: Three (3)

ACREAGE: 1.42 acres

ACREAGE TO BE REZONED: 1.42 acres

EXISTING ZONING: R2/Urban Residential District

PROPOSED ZONING: CI/Commercial Industrial

### NEIGHBORHOOD

The Department has reviewed the revised neighborhood submitted by the Applicant (Attachment 1). The revised neighborhood defined by the Applicant is an appropriate description and generally conforms to the neighborhood defined by the Department.

### SITE PLAN

The Department has reviewed the revised site plan submitted by the Applicant (Attachment 2). The Applicant's revised site plan continues to propose a retail pad site, a home improvement center, and associated parking and stormwater management within the non-tidal wetlands and

*Preserving Harford's past; promoting Harford's future*

MY DIRECT PHONE NUMBER IS (410) 638-3103

220 SOUTH MAIN STREET BEL AIR, MARYLAND 21014 410.638.3000 • 410.879.2000 • TTY 410.638.3086 • [www.harfordcountymd.gov](http://www.harfordcountymd.gov)

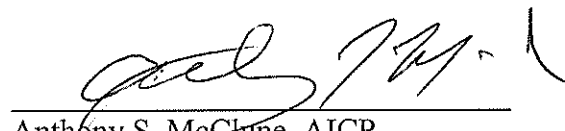
THIS DOCUMENT IS AVAILABLE IN ALTERNATIVE FORMAT UPON REQUEST.

associated 75-foot Natural Resource District (NRD) buffer. Development is not permitted within the non-tidal wetlands or 75-foot NRD buffer.

The Applicant's revised site plan may constitute an Integrated Community Shopping Center (ICSC). An ICSC is not permitted in the CI/Commercial Industrial District. Furthermore, the Applicant's revised site plan shows a "Proposed Sit Down Restaurant" on an adjacent parcel that is zoned R2/Urban Residential District. This adjacent parcel is not included in this rezoning request or the Applicant's accompanying requests.

### CONCLUSION

The Department has reviewed the Applicant's revised neighborhood and revised site plan. The Department's position as detailed in the original Staff Report remains unchanged. The Department of Planning and Zoning recommends that the request to rezone the subject property from GI/General Industrial District to CI/Commercial Industrial District be denied.

  
Shane Grimm, AICP  
Chief, Site Plans & Permits Review  
Anthony S. McClune, AICP  
Deputy Director, Planning and Zoning

SPG/ASM/jf

**DAVID R. CRAIG**  
HARFORD COUNTY EXECUTIVE

**LORRAINE COSTELLO**  
DIRECTOR OF ADMINISTRATION



**C. PETE GUTWALD**  
DIRECTOR OF PLANNING & ZONING

## HARFORD COUNTY GOVERNMENT

Department of Planning and Zoning

June 12, 2007

### STAFF REPORT

### **BOARD OF APPEALS CASE NO. 163**

APPLICANT/OWNER: 2001 Conowingo Road, LLC  
P.O. Box 230, Jarrettsville, Maryland 21084

REPRESENTATIVE: Robert S. Lynch, Esquire  
Stark and Keenan, P.A.  
30 Office Street, Bel Air, MD 21014

LOCATION: Tax Map: 41 / Grid: 1B / Parcel: 237  
Election District: Three (3)

ACREAGE: 1.42 acres

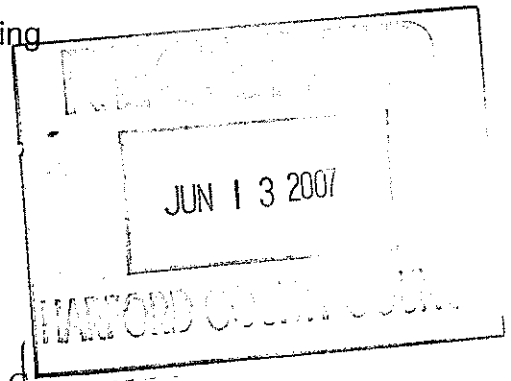
ACREAGE TO BE REZONED: 1.42 acres

EXISTING ZONING: R2/Urban Residential District

PROPOSED ZONING: CI/Commercial Industrial

DATE FILED: March 29, 2007

HEARING DATE: June 20, 2007



### APPLICANT'S REQUEST and JUSTIFICATION:

#### Request:

The Applicant is requesting to rezone 1.42 acres from R2/Urban Residential District to CI/Commercial Industrial District.

*Preserving Harford's past; promoting Harford's future*



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2001 Conowingo Road, LLC

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### Justification:

See ATTACHMENT 1.

### LAND USE AND ZONING ANALYSIS:

#### Location and Description of Neighborhood:

The Applicant's property is located north of Bel Air in the community of Hickory. The parcel is situated on the south side of Business Route 1 approximately 350-feet east of Johnson Mill Road. A location map and a copy of the Applicant's site plan are enclosed with the report (Attachments 2 and 3A & B).

The Department defines the neighborhood as all those properties east of Water Tower Way, between Business Route 1 and the Hickory Bypass; including those properties on the north side of Business Route 1. The northern limit of the neighborhood is the intersection of Business Route 1 and the Hickory Bypass. The neighborhood also extends approximately 2,000+/- feet south along MD Route 543 and includes all those properties on the east and west side of MD Route 543. Enclosed is a copy of a map showing the above referenced neighborhood (Attachment 4).

#### Land Use – Master Plan:

The subject property is located on the south side of Business Route 1 east of Johnson Mill Road. The area contains a mix of Land Use designations including Medium and High Intensities and Industrial/Employment. The Natural Features Map reflects stream systems. The subject property is designated as Industrial Employment which is defined by the 2004 Master Plan as:

***Industrial Employment** – Areas of concentrated manufacturing, distribution, technical, research, office, and other activities generally located along major transportation corridors.*

Enclosed with the report are copies of the 2004 Land Use Map and the Natural Features Map (Attachments 5 and 6).

#### Land Use – Existing:

The existing land uses generally conform to the intent of the Master Plan. The area contains single-family residential, commercial, industrial and institutional uses. Some of the commercial uses in the area include a car wash, farm equipment sales, gas stations/convenience stores, restaurants, carry-out food establishments, mini-warehousing, and banks. Industrial uses in the area such as warehousing, manufacturing, and processing are associated with the Wyndemede

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2001 Conowingo Road, LLC

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Corporate Center. The Hickory Elementary School and St. Ignatius Church represent some of the institutional uses in the area.

The topography within the area ranges from level to rolling. The site is gently sloping from north to south. The subject property is improved with a single-family dwelling and accessory structures. The majority of the property is lawn with several large mature trees. Enclosed with the report are a copy of the topography map and the aerial photograph (Attachments 7 and 8)

The subject property is irregularly shaped and is approximately 1.42 acres in size. A school bus storage facility is operated from the adjacent parcel to the east. The adjacent parcel to the south and west is the subject of Case No. 121 and is currently improved with a vacant block building with the remainder of the parcel being heavily wooded. The Hickory Elementary School is located directly across from the subject property on the north side of Business Route 1. The Hickory Village Shopping Center is located approximately 600-feet east of the subject property. There are several commercial establishments located on the north side of MD Route 543; including a firing range, construction vehicle repair, a gas station with convenience store, and school bus storage on the Board of Education property. There is also a car wash and salon on north side of Business Route 1. Enclosed with the report are site photographs (Attachment 9).

### Zoning and Zoning History:

#### Zoning:

The zoning classifications in the area are generally consistent with the 2004 Master Plan as well as the existing land uses. Residential zoning includes R2 and R3/Urban Residential Districts and RO/Residential Office. Commercial zoning includes B3/General Business. Industrial zoning includes CI/Commercial Industrial District and GI/General Industrial District. There are also parcels that are zoned AG/Agricultural within the neighborhood defined by the Department of Planning and Zoning. The subject property is zoned R2/Urban Residential District as shown on the enclosed copy of the Zoning Map (Attachment 10).

#### Zoning History:

The subject property has remained zoned R2/Urban Residential District since 1957 (Attachments 11-14).

### **BASIS FOR INDIVIDUAL REZONING REQUEST:**

Under Maryland case law, the burden of proof lies with the Applicant to provide information that there has been a substantial change in the overall character of the neighborhood or that the County made a mistake during the last comprehensive zoning review process. It should be noted that the Courts have stated that any argument for change cannot be based on existing changes that were anticipated during the last comprehensive review.

#### Substantial Change Argument:

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2001 Conowingo Road, LLC

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The Applicant argues that the subject property can no longer be used for intensive industrial uses generally associated with the GI/General Industrial District. The Applicant states that, "Since the time of the last Comprehensive Rezoning, there have been numerous changes in the character of the neighborhood. There has been new construction of retail service uses in the neighborhood as a result of the construction and realignment of US Route 1. In addition, the County has constructed a large recreational complex in the neighborhood which has been a source of much traffic generation. A new car dealership has been constructed on what was once known as the Church of the Nazarene Property. With the reorientation of the highways, the subject property becomes much more feasible for retail service uses as opposed to Industrial/Employment. There has not been any development of Industrial/Employment in the general neighborhood as the majority of the land uses are now service uses and are highway oriented."

The Department finds that there has not been a substantial change in the neighborhood. The BMW dealership was developed on property zoned CI/Commercial Industrial. Motor vehicle sales are permitted as a matter of right in the CI/Commercial Industrial District. Tucker Field is a County Parks and Recreation facility which is located on a parcel that is zoned AG/Agricultural. Parks and recreation uses are permitted as a matter of right in all zoning districts. The development of the Hickory Village Shopping Center with retail and service uses was also developed in accordance with the existing B3/General Business zoning.

The Applicant's argument that the increase in traffic generation has caused a substantial change in the neighborhood is unfounded. The neighborhood as defined by the Department is located entirely within the Development Envelope where more intensive uses are permitted and encouraged. The increase in traffic is an anticipated result of the development of uses in the area that are consistent with the Land Use Plan and existing zoning. Additionally, the Applicants argue that the subject property is more feasible for retail uses due to the reorientation of the highways. While the construction of the Hickory Bypass has helped to relieve congestion within the village of Hickory, the State Highway Administration (SHA) has designated the Bypass as a "denied access" highway. Therefore, the reorientation of the highways has not had the effect of making the subject property more feasible or accessible for retail uses. In fact, the Bypass has had the effect of directing traffic away from Business Route 1 to relieve congestion at the intersection of Business Route 1 and MD Route 543.

As stated above, the development which has occurred in the area is consistent with the existing zoning and Land Use Plan. Therefore, the Department finds that there has not been a substantial change in the neighborhood.

### Mistake:

The Applicant states that, "The Master Plan designates this property as a Industrial/Employment area. The current zoning, R2 (Urban Industrial) was retained during the last 1997 Comprehensive Rezoning review. At that time, it was projected that this area north of Bel Air and part of the Hickory community would develop as an industrial or employment center. The

## STAFF REPORT

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2001 Conowingo Road, LLC

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R2 zoning was retained due to the single-family homes stripped along Route 1. Immediately adjacent to the R2 zoning is GI (Industrial) which is not compatible with residential uses. The General Industrial zoning is defined pursuant to Section 267-40A(iii) as, "this district is intended for Industrial uses of a larger scale or more intensive processing with large areas of unenclosed storage, which may generate substantially more impact on surrounding properties. Retail sales are not permitted except as accessory to a manufacturing operation where the product is produced on a site or as otherwise permitted." A review of the uses allowed in a GI district, including sewage pumping stations, sanitary land fills, warehousing, wholesaling processing, rubble land fills, mineral extracting and processing. These uses would not be consistent with the neighborhood of Hickory, nor would they be compatible with the numerous institutional uses in the neighborhood, including the Hickory Elementary School, the Tucker Baseball Fields, and St. Ignatius Church. The present GI district is the subject of several rezoning cases requesting to change the district to CI (Commercial Industrial). The subject property should likewise be changed from R2 to CI in order to allow for compatibility of land uses. The premise, back in 1997, that this portion of the County would be ideal for a General Industrial use has not born out to fruition. Assumptions in 1997 were incorrect, the land use patterns and development that has occurred would not be compatible with an Industrial/Employment use of the property. On that basis alone, the property should be rezoned from R2 to a CI designation which allows a wider range of commercial uses and a less intensive industrial use, and zoning compatibility."

The subject property is designated as Industrial/Employment. The Wyndemede Corporate Center is located just south of the subject property and is zoned GI/General Industrial. The development of this industrial park is consistent with the Land Use Plan and GI/General Industrial district.

This rezoning request accompanies four other rezoning requests (Case No. 121, 122, 123 and 164) for adjacent parcels. The Applicant's site plan includes all five parcels and appears to show an Integrated Community Shopping Center (ICSC). This use is not allowed in the CI/Commercial Industrial District. The rezoning of this property to CI/Commercial Industrial District would constitute a "spot zoning" if the Board denied the four other zoning requests. The rezoning of the subject property could be addressed during the next Comprehensive Rezoning review. Therefore, the Department disagrees with the Applicant's justification that the County made a mistake during the 1997 Comprehensive Rezoning review by allowing the subject property to retain its R2/Urban Residential District zoning.

### **ANALYSIS OF INDIVIDUAL ZONING REQUEST:**

#### **Conformance with the Master Plan and Land Use Element Plan:**

The proposed rezoning is in conformance with the intent of the 2004 Master Plan. The Land Use Plan shows the area designated as Industrial/Employment.

#### **Impact on the neighborhood:**

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2001 Conowingo Road, LLC

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The requested rezoning would not adversely impact the neighborhood.

**COMMENTS FROM ADVISORY GROUPS:**

History Preservation Commission:

This property is not in a historic district and there are no historic sites on the property.

Planning Advisory Board:

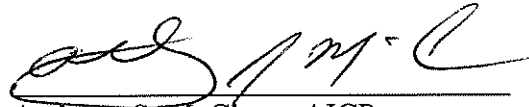
The Planning Advisory Board (PAB) reviewed the request at their meeting on May 9, 2007. The PAB voted 3-0 to recommend that the requested change in zoning be denied (Attachment 15).

**RECOMMENDATION and or SUGGESTED CONDITIONS:**

The Department of Planning and Zoning recommends that the request to rezone the subject property from R2/Urban Residential District to CI/Commercial Industrial District be denied.



Shane Grimm, AICP  
Chief, Site Plans & Permits Review



Anthony S. McClune, AICP  
Deputy Director, Planning and Zoning

SPG/ASM/jf